

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL W.P.NO.206 OF 2007

Mrs.Smita Navin Modi ..Petitioners

Vs.

Mr.Harshad N.Mody & Anr. ..Respondents

Mr.R.B.Upadhyay counsel for Petitioner
Mr.Khalil Khan counsel for Respondent No.1
Ms.S.V.Gajre A.P.P. for the State
...

CORAM: SMT.V.K.TAHILRAMANI, J.
DATE : MARCH 9, 2007

P.C.

1. Heard the learned counsel for the petitioner
learned counsel for respondent no.1-original
complainant and the learned A.P.P. for the State.

2. The petitioner is seeking quashing of process
issued by the learned Metropolitan Magistrate 43rd
Court, Mumbai in C.C.No.557/SS/2006. In the said
case process is issued under Section 138 of
N.I.Act.

3. However, for the reasons recorded in the order
passed by this Court in the case of **V.K.Jain Vs.**

P.V.Padode; **2005(3) Mh.L.J.778,** I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks. The learned counsel for the respondent no.1-original complainant makes a statement that no objection will be raised in respect of condonation of delay in preferring revision before the Sessions Court. In view of this statement, the learned Judge shall condone the delay if any, in filing the revision.

5. On the necessary revision being preferred by

the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI, J.]